

Message Text

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ACTION STR-04

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-02

INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02

OMB-01 OIC-02 EA-07 /115 W
----- 065469

R 191700Z JUL 76

FM USDEL MTN GENEVA

TO SECSTATE WASHDC 1766

INFO AMEMBASSY OTTAWA

LIMITED OFFICIAL USE USDEL MTN GENEVA 5745

ACTION STR

H PASS CODEL

E.O. 11652: N/A

TAGS: ETRD MTN

SUBJECT: US-CANADIAN DISCUSSION ON MTN STANDARDS CODE DEFINITIONS

1. SUMMARY: ON JULY 15 US AND CANADA DELS HAD CONSTRUCTIVE EXCHANGE AND CLARIFICATION OF POSITIONS ON DRAFT STANDARDS CODE DEFINITIONS BEING CONSIDERED BY THE NTM SUBGROUP ON TECHNICAL BARRIERS TO TRADE. CANADA WAS "REASSURED" OF US POSITION TO PURSUE WORK ON BASIS OF MODIFIED ISO/ECE DEFINITIONS IN STANDARDS CODE, BUT HAS SUBSTANTIVE CONCERNS REGARDING DEFINITIONS OF STANDARD AND TECHNICAL REGULATION AS THEY NOW EXIST IN THAT HYPOTHESIS. END SUMMARY.

2. US (NEWKIRK) OPENED MEETING BY STATING THAT US WAS PRESENT TO LISTEN TO FURTHER EXPLANATION OF CANADIAN RATIONALE ON LIMITED OFFICIAL USE

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STANDARDS CODE DEFINITIONS. WE STATED US ORIGINALLY PRE-

FERRED DEFINITIONS FOR DRAFT STANDARDS CODE CREATED BY CTIP WORKING GROUP , BUT NOW COULD SUPPORT INTERNATIONAL ORGANIZATION FOR STANDARDIZATION ECONOMIC COMMISSION FOR EUROPE (ISO/ECE) DEFINITIONS (HYPOTHESES B). US NOTED THAT AT PREVIOUS MEEGING OF SUBGROUP, CANADA HAD INTROUDUCED REVISED DEFINITIONS, APPEARING TO CREATE A "HYPOTHESES C". THIS RAISED CONCERNS IN US DEL OF ENGENDERING DIVERGENT POSITIONS INSTEAD OF MOVING SUBGROUP TO AGREEMENT ON HYPOTHESIS B DEFINITIONS. CANADA (DENIS, DOUGLAS) SAID THAT THEIR IMPRESSION OF LAST MEEGING IS THAT EC WAS STICKING TO HYPOTHESIS A DEFINITIONS BUT JAPAN, IN CONTRAST TO PREVIOUS MEETINGS, SEEMED TO MOVE TOWARD HYPOTHESIS B, ALTHOUGH JAPAN HAD SUBSTANTIVE DIFFICULTIES WITH SOME OF THOSE DEFINITIONS. IN ORDER TO MOVE JAPANESE ALONG, CANADIANS INTRODUCED A "BETTER FORM" OF HYPOTHESIS B. CANADIANS ALSO PERCEIVED NORDICS TO BE MOVING TOWARD HYPOTHESIS B, BUT THAT NORDICS DID NOT WANT TO PUSH EC IN SIMILAR DIRECTION AND RISK POTENTIAL HARDENING OF EC POSITION. CANADA CONSIDERED INTRODUCTION OF NEW DEFINITIONS ALSO AS A TACTICAL PLOY, SINCE BY OVERSTATING THEIR POSITION THEY MAY ACHIEVE SOME MOVEMENT BY OTHER DELS TOWARD HYPOTHESIS B.

3. US STATED THAT ITS OBJECTIVE WAS TO STAY AS CLOSE AS POSSIBLE TO ISO/ECE DEFINITIONS IN ORDER TO GAIN MAXIMUM ACCEPTABILITY OF DEFINITIONS BY THOSE DELEGATIONS CLOSELY ALLIED WITH WORK OF ISO/ECE (E.E. EC AND NORDICS). CANADA AGREED IN PRINCIPLE WITH THIS POSITION, BUT BELIEVED ISO WOULD ACCEPT GENUINE IMPROVEMENTS TO THEIR DEFINITIONS. ALTHOUGH BOTH US AND CANADA AGREED THAT ISO/ECE WOULD BE WILLING TO MAKE CHANGES TO THEIR DEFINITIONS, WE DID NOT RESOLVE THE QUESTION AS TO HOW MANY CHANGES THAT GROUP WILL ACCEPT. US BELIEVES THAT THE FEWER CHANGES INTRODUCED THE BETTER THE CHANCE OF ACCEPTANCE, WHILE CANADA WANTS TO PRESENT ISO/ECE WITH BEST DRAFT DEFINITIONS, REGARDLESS OF NUMBER OF CHANGES NEEDED.

4. CANADA BELEIVES THAT HYPOTHESIS B DEFINITIONS ARE LIMITED OFFICIAL USE

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IMPRECISE AND NEED TIGHTENING IN ORDER TO BE ACCETPABLE LEGAL LANGUAGE. HOWEVER, AFTER EXTENSIVE DISCUSSION OF DEFINITIONS, CANADA SAID THEY COULD "LIVE WITH" CURRENT HYPOTHESIS B WORDING OF DEFINITIONS OF "REGULATION" AND "TECHNICAL SPECIFICATION". CANADA HAS SUBSTANTIVE PROBLEMS WITH DEFINITION OF "STANDARD" AND "TECHNICAL REGULATION". THESE DEFINITIONS CORESPOND TO VOLUNTARY STANDARD AND MANDATORY STANDARR, RE-

SPECTIVELY, USED IN ORIGINAL CTIP DRAFT CODE, BUT CURRENT DEFINITIONS DO NOT MAKE THEM APPEAR MUTUALLY EXCLUSIVE, I.E. VOLUNTARY VERSUS MANDATORY. CANADA IS CONCERNED THAT THIS IMPRECISION MAY LEAD TO SOMETHING NOT BEING COVERED BY THE CODE, ALTHOUGH THEY COULD NOT THINK OF ANY CONCRETE EXAMPLES OF WHAT THAT MIGHT BE. CANADIAN DEL ALSO POINTED OUT SOME MORE SPECIFIC PROBLEMS WITH THESE DEFINITIONS: (A) STANDARE MAY COVERPRIVATE CONTRACTS, SOMETHING NOT INTENDED BY CODE; (B) TECHNICAL REGULATION- DOES NOT COVER SITUATION WHERE A GENERAL LAW MAKES A STANDARD MANDATORY BUT DOES NOT REFER TO ANY SPECIFIC STANDARD (I.E. POLAND) ; AND (C) TECHNICAL REGULATION - COVERS DESCRIPTIVE TECHNICAL SPECIFICATION WHICH IS NOT INTENDED TO BE COVERED BY CODE (I.E. CUSTOMS TARIFF).

5. CANADA IS NOT TIED TO ANY SPECIFIC LANGUAGE BUT BELIEVES CHANGES ARE NECESSARY TO CURRENT DRAFT DEFINITIONS IN ORDER TO RESOLVE THESE DIFFICULTIES. US OPINED THAT IN ORDER TO MEET PROBLEM OF MUTUAL EXCLUSIVITY, CANADA MIGHT BEGIN USING TECHNICAL REGULATION AS A GIVEN DEFINITION AND THEN CREATE A NEW DEFINITION FOR STANDARD WHICH IS THE MIRROR IMAGE OF TECHNICAL REGULATION. (BOTH US AND CANADA AGREED THAT THERE IS LITTLE PROBABILITY THAT ISO-EECE WOULD ACCEPT ANY CHANGES TO DEFINITION OF STANDARD THAT ARE NEEDED TO MAKE DRAFT CODE COVER OBJECTIVES OF SUBGROUP.)

6. CANADA NOTED THAT TWO US PROPOSALS ON DEFINITIONS ON TABLE, AND PARTICULARLY REFERRED TO REVISION OF TECHNICAL SPECIFICATION TO COVER "PROCESS AND PRODUCTION METHODS". IF US PUSHES THIS DEFINITION CANADA STATED THEY WOULD INTRODUCE A REVISION TO DEFINITION OF TECHNICAL LIMITED OFFICIAL USE

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SPECIFICATION TO ENSURE THAT ONLY SPECIFICATIONS AS THEY APPLY TO A PRODUCT ARE COVERED. ALTHOUGH CANADA IN SYMPATHY WITH US DESIRE TO COVER HEALTH D SANITARY REGULATIONS, THEY DID NOT BELIEVE THAT US PROPOSAL IS ADEQUATE TO ADDRESS THIS DIFFICULTY AND THEY SUGGESTED BEST APPROACH MIGHT BE THROUGH CERTIFICATION PROVISIONS OF DRAFT CODE.

7. US AND CANADA BOTH CONSIDERED CLARIFICATION SESSION USEFUL AND BOTH DELEGATIONS AGREED TO MEET PRIOR TO NEXT NTM SUBGROUP MEETING TO SHARE ADDITIONAL THOUGHTS ON THESE TOPICS.WALKER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, DIPLOMATIC DISCUSSIONS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MTNGE05745
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760277-1097
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760745/aaaabmxu.tel
Line Count: 166
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 12 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 APR 2004 by greeneet>; APPROVED <13 APR 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-CANADIAN DISCUSSION ON MTN STANDARDS CODE DEFINITIONS
TAGS: ETRD, US, CA, MTN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006